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## Decision

**Matter of:** Strategic Resources, Inc.

**File:** B-419151

**Date:** December 11, 2020

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Craig A. Holman, Esq., and Nathaniel E. Castellano, Esq., Arnold & Porter Kaye Scholer, LLP, for the protester.

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### DIGEST

1. Protest that the agency unequally conducted discussions by issuing solicitation amendments during oral presentations is denied where the record shows the solicitation amendments were issued to allow the agency to better conduct its cost evaluation of previously submitted information, and the agency only asked clarifying questions during the oral presentations.
  2. Protest that the agency did not maintain a record of the oral presentations is denied where the record contains sufficient information demonstrating the content of the oral presentations.
  3. Protest that the agency unreasonably assigned a deficiency is denied where the record shows that the evaluation was consistent with the firm's technical proposal and the terms and conditions of the solicitation.
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### DECISION

Strategic Resources, Inc. (SRI), of McLean, Virginia, protests its elimination from the competitive range under request for proposals (RFP) No. 47QFCA20R0006, issued by the General Services Administration (GSA) for military family-life counseling services. SRI alleges that the agency improperly conducted discussions, and unreasonably evaluated its proposal.

We deny the protest.

## BACKGROUND

On June 19, 2020, GSA issued the RFP to procure non-medical counseling, consultation, outreach, management, and logistics support services to support the Department of Defense's military and family-life counseling (MFLC) program.<sup>1</sup> AR, Tab 2, RFP at 1, 31; see *also* Contracting Officer's Statement (COS) at 1.<sup>2</sup> The RFP contemplated the award of two cost-plus-award-fee contracts to be performed over a 1-year base period, and four 1-year option periods. RFP at 69. The RFP anticipated that the two awards would each cover roughly one-half of the continental United States (*i.e.*, one award covering east of the Mississippi River (eastern region), and the other award covering west of the Mississippi River (western region)). *Id.* at 7.

The RFP set forth five tasks that the selected contractor would be expected to perform: Task 1, Program Management; Task 2, Transition-In and Transition-Out; Task 3, MFLC services; Task 4, On-Demand Services; and, Task 5, Surge Support Services. AR, Tab 6, RFP, amend. 8 at 35. The RFP set forth three additional optional tasks: Task 6, Western Geographical Optional Footprint; Task 7, Eastern Geographical Optional Footprint; and, Task 8 Virtual Support Services. *Id.* Ultimately, the selected contractor was expected to maximize the availability and effectiveness of MFLC services. *Id.* at 34-35.

When responding to the solicitation, offerors were instructed to submit their proposals in four parts: (1) preliminary cost/price proposals; (2) remainder of cost/price proposals; (3) written technical proposals; and (4) oral technical proposal presentation.<sup>3</sup> RFP at 168. The written technical proposal was required to describe the project staffing plan, key personnel, any technical assumptions, transition-in plan, past performance, as well as provide any oral technical proposal slides. *Id.* at 179.

For the oral technical proposal presentation, offerors were instructed to discuss their key personnel and project staffing, as well as their technical and management approaches. RFP at 186. When describing their key personnel and project staffing,

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<sup>1</sup> The military and family-life counseling program provides non-medical counseling, consultation, and outreach services to more than 200 military installations throughout the world. RFP at 31. The program counsels service members and their families regarding issues, such as deployment, frequent relocations, isolation from extended family members, coping with the absence of a parent, child education, and spousal employment. *Id.*

<sup>2</sup> The solicitation's pages are unnumbered, and all references in this decision are to the PDF page numbers.

<sup>3</sup> The preliminary cost/price proposal included an organizational conflict of interest statement, contract registration, and, if applicable, a letter describing any meaningful business relations, such as parent or subsidiary companies. RFP at 171. The remainder of the cost/price proposal consisted of pricing rates, cost accounting standards, cost/price assumptions, compliance statements, etc. *Id.* at 172.

offerors were instructed to explain their rationale for selecting particular key personnel, rationale for projected staffing, and approach to hiring and retaining staff. *Id.* When describing their technical and management approaches, offerors were instructed to explain how they would satisfy contract requirements, management structure, program management, and processes for maintaining high quality work products. *Id.*

Award would be made on a best-value tradeoff basis considering key personnel and project staffing, technical and management approach, past performance, and cost factors. RFP at 188, 192. When combined, the non-cost factors were significantly more important than cost. *Id.* at 192. The RFP specified that an offeror must receive at least a rating of acceptable in each non-cost factor in order to be considered for award. *Id.*

SRI and other offerors submitted proposals prior to the July 20, 2020, closing date. AR, Tab 25, Competitive Range Determination (CRD) at 5; COS at 7. The agency evaluated SRI's proposal as "acceptable" under the technical and management approach, and past performance factors, but as "not acceptable" under the key personnel and project staffing factor. AR, Tab 25, CRD at 8. SRI's technical proposal was found "not acceptable" under that factor because it did not propose any labor hours for two tasks (*i.e.*, Task 4, On-Demand Support, and Task 5, Surge Support). *Id.* at 9. The agency also noted that SRI did not propose any hours for two other optional subtasks. *Id.* Because SRI received a rating of "not acceptable" for one of the technical factors, the agency determined that SRI's proposal was ineligible for award. *Id.* After SRI received its debriefing, it filed this protest with our Office.

## DISCUSSION

SRI challenges multiple aspects of the agency's conduct of the acquisition. Principally, the firm complains that the agency unfairly and unequally conducted discussions with other offerors, and therefore should have allowed SRI to revise its proposal to address the alleged deficiencies. SRI also alleges that the agency failed to maintain adequate records of the oral presentations. Additionally, SRI alleges that the agency unreasonably assigned the rating of "not acceptable" to its proposal under the key personnel and project staffing factor. We have reviewed all of SRI's allegations, and conclude that none provides us with a basis to sustain the protest.

We discuss the principal allegations below, but note, at the outset that, in reviewing protests challenging an agency's evaluation of proposals, our Office does not reevaluate proposals or substitute our judgment for that of the agency; rather, we review the record to determine whether the agency's evaluation was reasonable and consistent with the solicitation's evaluation criteria, as well as applicable statutes and regulations. *NSR Sols., Inc.*, B-406337, B-406337.2, Apr. 18, 2012, 2012 CPD ¶ 154 at 2. ("The evaluation of technical proposals is a matter within the discretion of the contracting agency, and in reviewing protests of an agency's evaluation, our role is limited to ensuring that the evaluation was reasonable and consistent with the terms of the solicitation. It is well settled that a technically unacceptable proposal cannot be

considered for award, and thus properly may be excluded from the competitive range.”) (internal citation omitted).

### Improper Discussions

SRI alleges that the agency allowed other offerors, but not SRI, to revise their proposals to address weaknesses and deficiencies on two occasions. Protest at 17. First, SRI asserts that the agency issued solicitation amendments 4 and 5 to provide other offerors with an opportunity to cure shortcomings in their cost proposals. *Id.* at 21. Second, SRI asserts that the agency conducted oral discussions during the oral presentations. *Id.* at 18. As a result, SRI argues that the agency unfairly never allowed the firm to submit a revised proposal addressing the agency’s concerns with its proposed staffing levels. *Id.* at 17-18.

Under Federal Acquisition Regulation (FAR) 15.306(d), discussions are exchanges with offerors after the establishment of a competitive range. Such exchanges are to be tailored to each offeror’s unique proposal, with the intent of obtaining proposal revisions through bargaining, give and take, attempts at persuasion, the alteration of assumptions and positions, and negotiations. FAR 15.306(d). When an agency conducts discussions with competitive range offerors, they are required to address, at a minimum, deficiencies, significant weaknesses, and adverse past performance information to which an offeror has not previously had an opportunity to respond. FAR 15.306(d)(3). After an agency advises offerors of deficiencies in their proposals, the agency must allow each offeror to submit a revised proposal satisfying the government’s requirements. FAR 15.307(b).

### Amendments 4 and 5

The RFP instructed offerors to complete a cost/price worksheet as part of their cost proposals. RFP at 172-73. The worksheet required offerors to provide cost breakdowns and information for each contract line item number (CLIN). RFP, attach. Q, Cost/Price Excel Worksheet.

When describing their costs to perform Task 3, MFLC services (*i.e.*, CLIN X002), offerors were instructed to provide cost elements and other cost information for each MFLC service. RFP, attach. Q, Cost/Price Excel Worksheet. For instance, offerors were required to provide the applicable indirect rates, direct labor rates, rate buildups, award fee percentages, and proposed total hours. *Id.* Offerors were required to provide this information for proposed services for both the eastern and western regions. *Id.*

After offerors submitted their proposals, the agency issued amendment 4 on July 29, 2020. AR, Tab 25, CRD at 6. Amendment 4 required offerors to complete a revised cost/price worksheet. AR, Tab 6, RFP, amend. 4 at 3. The revised cost/price worksheet added four additional data fields to CLIN X002. *Id.* The agency added the additional data fields to impose standardized naming conventions, and to reformat submitted information in order to facilitate an automated rate comparison with current

data provided in another spreadsheet (*i.e.*, RFP, attach. Y, MFLC Geographic Footprint).<sup>4</sup> COS at 7-8.

First, the revised worksheet required offerors to describe the tier level for each proposed MFLC position.<sup>5</sup> RFP, amend. 4 at 19. Second, offerors were required to describe the rotational type of each MFLC position.<sup>6</sup> Third, offerors were required to provide the location information (*i.e.*, specific military installation) for each position. *Id.* Fourth, offerors were required to list the state where proposed MFLC counselors would work. *Id.* The amendment did not permit offerors to revise any cost information or other aspect of their previously submitted proposals. RFP, amend. 4 at 3.

The agency issued amendment 5 on July 30, 2020. AR, Tab 7, RFP, amend. 5 at 1. Amendment 5 provided instructions to two questions submitted seeking clarification regarding how to complete the revised cost/price worksheet. *Id.* at 92.

According to SRI, these amendments effectively constituted discussions. Comments at 13-14. SRI argues that the “acid test” for discussions is whether offerors were allowed to submit revised proposals, and that the agency’s actions here satisfy that test. Protest at 22. SRI therefore asserts that the agency’s actions were unfair because other offerors were allowed to cure shortcomings in their cost proposals, but that SRI, which included the requested information in its initial cost proposal, was not afforded any opportunity to revise apparent shortcomings in its technical proposal. *Id.* at 21-22. The agency argues that the amendments did not constitute discussions because the amendments required offerors to provide information not previously solicited, were uniformly issued to all offerors, and did not involve any bargaining or negotiating. Memorandum of Law (MOL) at 7.

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<sup>4</sup> RFP, attach. Y provides the actual place of performance/duty station/assignment location for current MFLC personnel. AR, Tab 3, RFP, amend. 1 at 73.

<sup>5</sup> The MFLC program requires counselors with different levels of experience. RFP at 85. The RFP described the different levels of experience as a four-level tiered support system. *Id.* A counselor in Tier One possesses a provisional clinical counseling license, a counselor in Tier Two possesses a clinical counseling license with two years of post-licensure clinical experience, a counselor in Tier Three possesses a clinical counseling license with between two and five years of post-licensure clinical experience, and a counselor in Tier Four possesses a clinical counseling license with more than five years of post-licensure clinical experience. *Id.*

<sup>6</sup> The RFP described different rotational types of MFLC counselors. Some rotational MFLC counselors would be assigned to adult military members, children of military members, or military members in leadership positions. RFP at 33. Depending on the persons served, the MFLC counselors complete different rotational terms (*e.g.*, an MFLC counselor assigned to adults completes a 12-month term, and an MFLC counselor assigned to schools completes a 9-month term). *Id.*

We agree with the agency that the amendments did not constitute discussions, and that therefore SRI was not unequally denied an opportunity to revise any deficiencies or significant weaknesses present in its proposal on this basis. We recognize that the “acid test” for determining whether discussions have been held is whether offerors were provided opportunity to modify or revise their proposals, *JHC Tech., Inc.*, B-417786, Oct. 23, 2019, 2019 CPD ¶ 376 at 4, and that amendment 4 invited offerors to modify their cost proposals by including additional information. Nevertheless, the agency’s exchange here does not bear the ordinary indicia of discussions as contemplated under FAR 15.306(d). To illustrate, the information conveyed in amendments 4 and 5 was uniform as opposed to being tailored to correct any particular proposal’s deficiencies or significant weaknesses, and the communication did not involve any bargaining (*i.e.*, give-and-take, or alteration of assumptions and positions) between the agency and any offeror. See *Equa Sols., Inc.*, B-409848.2, B-409848.3, Nov. 20, 2014, 2014 CPD ¶ 354 at 7 (agency did not conduct discussions by allowing all offerors to submit revised proposals in response to a solicitation amendment because the exchange was not accompanied by any of the ordinary indicia of discussions).

Further, the record shows that the amendments were issued solely to facilitate the agency’s automated cost comparison of 2,334 MFLC positions, and that offerors were not allowed to revise or modify any of their previously submitted proposed costs for these positions. COS at 8. In this regard, we consider the agency’s actions to be a matter of sound acquisition practice because an automated process will lead to more accurate results and a more reliable cost realism evaluation. Moreover, we note that our Office has not found discussions to have occurred in similar situations where agencies have solicited revised proposals through solicitation amendments in order to obtain more accurate proposal information. See *Presidio Networked Sols., Inc., et al.*; B-408128.33 *et al.*, Oct. 31, 2014, 2014 CPD ¶ 316 at 10 (agency did not conduct discussions when it allowed all offerors to submit revised proposals in order to obtain updated and therefore more accurate pricing information). Accordingly, we deny the protest allegation because the record does not show that the agency conducted discussions by issuing amendments 4 and 5 to solicit reformatted cost information.

### Oral Presentations

As noted above, the RFP contemplated that offerors would provide an oral presentation discussing their proposed key personnel and staffing approaches, as well as their proposed technical and management approaches. RFP at 186. The purpose of the oral presentation was to allow the agency to clarify each offeror’s methodologies and approaches for evaluative purposes. *Id.* at 185. In this regard, the RFP stated that, immediately following the oral presentation, agency personnel would discuss points of clarification amongst themselves, and then conduct a clarification question-and-answer (Q&A) session with each offeror. *Id.* The RFP stated that each offeror should not present any new information to any of the clarification questions, and that “[p]roposal revisions are not expected and will not be allowed” during the Q&A session. *Id.*

Following SRI's presentation, the agency asked only a single question, "[c]an the offeror please point to the hours supporting Task 2, in Option Period 4 in the staffing plan?" AR, Tab 14, Q&A Notes at 1. The notes show that SRI responded that its staff is [DELETED], so it opted to offer the [DELETED]. *Id.*

According to SRI, this exchange constituted discussions because the agency allowed the firm to expand upon the significance of its proposed approach to the transition-out subtask. Comments at 9-10. SRI argues that it effectively revised its proposal by explaining to the agency that it assumed that it would continue as the provider and therefore not need to transition-out at the conclusion of that period. *Id.* at 10. The agency responds that the question only sought clarifying information, and therefore did not constitute discussions. MOL at 5.

On this record, we agree with the agency that it asked a clarifying question. Section 15.306 of the FAR provides that clarifications are limited exchanges that may be conducted, among other things, to enhance the agency's understanding of proposals, or allow for reasonable interpretation of the proposal. FAR 15.306(a), (b)(2); see also *Gulf Copper Ship Repair, Inc.*, B-293706.5, Sept. 10, 2004, 2004 CPD ¶ 108 at 6. Consistent with the agency's position, we interpret the question posed as a clarification because the question plainly sought to enhance the agency's understanding of an irregular and overconfident aspect of the firm's approach. Additionally, contrary to the protester's position, we do not find the firm's response as constituting "discussions" as defined in FAR 15.306(d); the protester's response did not change its proposed hours for the transition-out subtask, or otherwise modify or revise its proposal. Accordingly, we deny the protest allegation.<sup>7</sup>

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<sup>7</sup> SRI also points out that the agency's evaluator notes from the firm's oral presentation contains a notation showing that a significant weakness "came from discussion." Comments at 8 (citing AR, Tab 15, Evaluator Notes, Factor One. While SRI argues that this shows that agency personnel understood the Q&A session to constitute discussions, we are not persuaded. The record does not contain any evidence that the agency discussed the basis for the assigned significant weakness with SRI during the Q&A session. See AR, Tab 14, Q&A Notes at 1. Furthermore, a declaration from the appropriate agency official explained that the notation reflects the fact that the technical evaluators identified the significant weakness during their discussion of SRI's technical proposal. Supp. MOL, attach. 1, Decl. of Technical Evaluation Board Chairman at 1. Thus, this notation does not demonstrate that the agency engaged in discussions with SRI following SRI's presentation.

## Record of Oral Presentations

SRI asserts that the agency failed to maintain adequate records of its oral presentations. Protest at 23-26. SRI argues that the agency failed to video record the presentation, and therefore reviewing fora are now unable to determine what occurred during SRI's oral presentation. *Id.* at 25. The agency responds that it maintained an adequate record of SRI's oral presentation in accordance with FAR 15.102(e).

Section 15.102(e) requires the contracting officer to maintain a record of oral presentations to document what the agency relied upon in making the source selection decision. The source selection authority selects the method of recording the oral presentations, and FAR 15.102(e) gives the following examples of methods that may be used: videotaping, audio tape recording, written record, government notes, copies of offeror briefing slides or presentation notes. Whatever method is chosen, FAR 15.102(e) establishes an obligation to provide a reasonably adequate record of such presentations and the evaluation thereof. *J&J Maintenance, Inc.*, B-284708.2, B-284708.3, June 5, 2000, 2000 CPD ¶ 106 at 3. Moreover, the principal of government accountability dictates that an agency maintain a record adequate to permit meaningful review. *Checchi and Co. Consulting, Inc.*, B-285777, Oct. 10, 2000, 2001 CPD ¶ 132 at 6.

Here, the record contains adequate documentation of SRI's oral presentation. The record contains SRI's oral presentation slides, the aforementioned record of the Q&A session, and the technical evaluation notes showing specific observations regarding the firm's oral presentation. See AR, Tab 13, SRI Oral Presentation Slides; Tab 14, Q&A Notes; Tab 15, Evaluator Notes on SRI. Significantly, the slides contain extremely detailed information about SRI's proposed personnel and management approach, including, for example, the firm's proposed key personnel with biographies, and task-by-task descriptions of how the firm will satisfy each of the performance objectives. AR, Tab 13, SRI Oral Presentation at 6-11, 31-54.

Furthermore, the agency preserved a record of which slides SRI presented; the evaluator notes show which slides SRI omitted from its presentation, or simply read the slide's title. AR, Tab 15, Evaluator Notes on SRI, Factor 2 Spreadsheet, Row 83 ("Slides omitted - 12-15, 47, 49\*, 66, 67\*, 70-73, 80-83, 87, 134, 138-141 \*title only"). Thus, the record contains adequate documentation of the oral presentation because the slides provide a record of SRI's proposal, and the Q&A notes and evaluator notes provide a record of what was presented and actually occurred during the presentation, such that one can determine whether the agency's evaluation judgments were reasonably based on the content presented. *Cf. J&J Maintenance, Inc.*, *supra* at 3 (agency did not maintain records consistent with FAR 15.102(e) because the slides provided only outlines and the evaluators' notes did not describe what information was provided during the protester's oral presentation). Accordingly, we deny this allegation.

## Assignment of a Deficiency

SRI alleges that the agency unreasonably assigned a deficiency to its technical proposal. Protest at 27-32.

The RFP required offerors to provide a project staffing plan containing all proposed employees working on this effort. RFP at 179-180. Offerors were required to complete a project staffing plan template, which included identifying all non-key personnel by name or as “To Be Determined” (TBD), and each proposed employees’ labor hours by task. *Id.* at 180; RFP, attach. R, Project Staffing Plan Template. Of significance, the project staffing plan template provided the following instruction:

Each row should represent one proposed personnel regardless of whether a name is provided or TBD. For example, for ten TBD Data Analysts, use ten rows; *specify in each row the hours*; functional role description, clearance level at time of proposal submission, qualifications, expertise, certifications, etc. of the proposed individual/position. *DO NOT combine the hours for ten TBA Data Analysts into one row.*

RFP, attach. R, Project Staffing Plan Template (emphasis added).

The RFP also provided estimated costs plus award levels for each of the tasks. RFP at 166-67. For Task 4, On-Demand Support Services, the RFP provided an estimate of between \$38 and \$42 million for the eastern area, and an estimate of between \$31 and \$34 million for the western area. *Id.* at 167. For Task 5, Surge Support Services, the RFP provided an estimate of between \$683 and \$758 million. *Id.* In evaluating proposals under the key personnel and project staffing factor, the RFP advised that each offeror’s project staffing plan would be evaluated to assess compliance with the requirements outlined in the solicitation’s instructions. RFP at 192.

The RFP also included the following relevant Q&A exchange:

Comment: The Project Staffing Plan Template has a Duty/Assignment Location columns in the Base Period, Option Periods, and Award Periods sheets.

Question: What should offerors put in the Duty/Assignment Location column of the spreadsheet for on demand and surge assignments? Is the state level sufficient?

Answer: The Government does not want to respond to a potential proposal solution. However, based on the question and depending on the offeror’s proposed solution, it is reasonable to assume this column could be left blank or populated with a “TBD.”

AR, Tab 3, RFP, amend. 1 at 365.

As noted above, the agency evaluated SRI's proposal as "Not acceptable" under the key personnel and project staffing technical factor. AR, Tab 25, CRD at 8. The agency reasoned that SRI's proposal did not conform to the material solicitation requirement that offerors propose labor hours for all tasks because SRI did not propose any hours for Tasks 4 and 5. *Id.*

SRI argues that this evaluation is unreasonable. The firm asserts that on-demand and surge support labor hours are unpredictable. Comments at 31. The firm argues that it incorporated the cost estimates into its projected personnel levels, but that there simply was no reason or basis to propose precise labor hours on the individual level for these tasks. *Id.* The firm also argues that the Q&A exchange essentially permitted offerors to leave aspects of their project staffing plans blank when the specific information was inherently unpredictable. *Id.* at 32. Finally, SRI argues that its proposal identified the total proposed labor hours for these tasks, and represented that it would perform these functions. *Id.* at 33-36. The agency responds that SRI's proposal failed to conform to a material solicitation requirement by failing to propose hours for specific MFLC counselors and personnel for Tasks 4 and 5. MOL at 20-21.

On this record, we have no basis to object to the agency's position. First, our review confirms that SRI did not submit a complete project staffing plan because it omitted proposed labor hours for employees supporting Tasks 4 and 5. AR, Tab 12, SRI Project Staffing Plan, Columns R-U. SRI included entries of [DELETED] for proposed labor hours for the eastern region, and [DELETED] for proposed labor hours for the western region. *Id.* Columns, G, R-U.

Second, we are not persuaded by SRI's assertion that the RFP did not require offerors to propose precise labor hours for these positions. As the agency explains in its report, the RFP instructed offerors to include proposed labor hours for each employee, and noted that offerors should not aggregate or combine labor hours by task or function. RFP at 180; RFP, attach. R, Project Staffing Plan Template. Further, the Q&A exchange provided only that offerors could identify as "TBD" the assignment/duty location for the relevant employees. MOL at 21. Because the Q&A exchanges contain no language communicating that offerors could similarly use "TBD" for proposed labor hours, we are not persuaded that this Q&A changed the requirement set forth in the RFP's instructions and evaluation criteria. See MOL at 20-21.

Third, we agree with the agency that SRI's inclusion of its total proposed labor hours, or its commitment to provide these services, does not cure SRI's failure to conform to the solicitation's preparation instructions and respond appropriately to the evaluation criteria. MOL at 22. Simply put, neither the total labor hours nor the firm's approach to providing on-demand and surge support services provide the specific labor hours for the agency to evaluate, as required by the RFP. Further, the agency explains that specific proposed labor hours were necessary for the agency to determine whether SRI had sufficient personnel to staff short-term events in support of on-demand services, or long-term events in support of surge support services. *Id.* 22-23.

Finally, to the extent SRI argues that the RFP's requirement to provide proposed labor hours for these positions is unreasonable because the labor hours are "inherently impossible to predict," we dismiss that allegation as untimely. Comments at 31. Our Bid Protest Regulations provide that any challenge to the terms of solicitation must be filed before the closing date of the solicitation period. 4 C.F.R. § 21.1(a)(1); see *also MT & H Sys., LLC*, B-410141, Sept. 29, 2014, 2014 CPD ¶ 283 at 2. Thus, any allegation that the RFP should not have required proposed labor hours for either Tasks 4 or 5 should have been filed prior to the solicitation's closing date, and is therefore untimely at this juncture.<sup>8</sup>

### Remaining Challenges to the Evaluation

SRI raises multiple other allegations challenging the agency's evaluation. It argues that the agency unreasonably assigned a significant weakness and two weaknesses to the firm's proposal under the key personnel and staffing approach factor. Protest at 33-34. The protester also argues that the agency unreasonably underrated the firm's past performance. *Id.* at 38. We dismiss these challenges because SRI is not an interested party to raise them.<sup>9</sup>

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<sup>8</sup> SRI also alleges that the agency unreasonably assigned a deficiency as opposed to a simple weakness for the firm's failure to propose labor hours for individual employees. Supp. Comments at 22-23. SRI asserts that the individual evaluators labeled this feature as a weakness in their notes, and that the record contains no explanation for why that weakness was then elevated to a deficiency in the consensus rating. Comments at 29. This allegation lacks merit.

Even assuming that SRI's allegation is accurate, our decisions explain that it is far from unusual for individual evaluator ratings to differ from one another, or to differ from the consensus rating eventually assigned; indeed, a score may reasonably be determined after discussions among the evaluators. See, e.g., *Bering Straits Tech. Servs.*, B-401560.3, B-401560.4, Oct. 7, 2009, 2009 CPD ¶ 201 at 2. Our concern is not whether the final ratings are consistent with earlier, individual ratings, but whether they reasonably reflect the relative merits of the proposal. *Id.*; *accord Resource Applications, Inc.*, B-274943, B-274943.3, Mar. 15, 1997, 97-11 CPD ¶ 137 at 5 ("In short, the overriding concern in the evaluation process is that the final score assigned accurately reflect[s] the actual merits of the proposals, not that it be mechanically traceable back to the scores initially given by the individual evaluators."). Thus, we deny this allegation because whether the consensus rating differed from the individual evaluator ratings does not provide a valid basis of protest.

<sup>9</sup> SRI also alleges that the agency unequally evaluated proposals because "the only explanation for the competitive range offerors receiving Acceptable ratings under all three evaluation factors and no deficiencies is that the Agency held those offerors to a more lenient, favorable standard." Protest at 36. We dismiss this allegation as

Under our Bid Protest Regulations, a protester must be an interested party to pursue protest allegations before our Office. 4 C.F.R. § 21.1. An interested party is an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. 4 C.F.R. § 21.0(a)(1). A protester is not an interested party if it would not be next in line for award if its protest were sustained. *Serka Taahhut Insaat, A.S.*, B-416391.2, B-416391.3, Aug. 13, 2018, 2018 CPD ¶ 284 at 4.

Here, we conclude that SRI is not an interested party to raise any challenges to the agency's assignment of weaknesses to its technical proposal or evaluation of the firm's past performance because the firm would not be in line for award in the event we sustained any of them. As noted above, the agency assigned a "Not Acceptable" rating to SRI's proposal because the firm did not identify any proposed labor hours for its employees supporting Tasks 4 and 5. Significantly, that rating served as the sole reason for SRI's exclusion from the competitive range, which was consistent with the terms of the RFP. AR, Tab 25, CRD at 9; RFP at 192 ("The receipt of an evaluation rating of NOT ACCEPTABLE in any single factor will result in the overall proposal being determined NOT ACCEPTABLE and therefore ineligible for award."). Thus, even if we sustained any of the firm's remaining challenges, the agency would still have a reasonable basis to exclude SRI from the competitive range.

The protest is denied.

Thomas H. Armstrong  
General Counsel

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speculative. See *Raytheon Blackbird Techs., Inc.*, B-417522, B-417522.2, July 11, 2019, 2019 CPD ¶ 254 at 3 (a protest allegation which relies on speculation does not provide a legally sufficient basis because our Office will not find improper agency action based on conjecture or inference). The protester does not identify how any particular aspect of another offeror's proposal was evaluated differently from an identical feature of its proposal; rather, the allegation is predicated entirely on the firm's view that its proposal was unreasonably assigned weaknesses. Protest at 36-38. Thus, we dismiss this allegation because it requires us to infer that other proposals were evaluated differently based entirely on the firm's conjecture that no other proposal could have offered a better technical approach.